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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,786	08/22/2001	Dillon Remler	22797.502	9036

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

EXAMINER

LASTRA, DANIEL

ART UNIT PAPER NUMBER

3622

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,786

Applicant(s)

REMLER, DILLON

Examiner

DANIEL LASTRA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2002.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-15 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-15 have been examined. Application 09/935,786 has a filing date 08/22/2001 and Claims Priority from Provisional Application 60227425 (08/23/2000).

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of: (1) whether the invention is within the technological arts; and (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, the instant claims fail to recite the use of any type of technology (e.g. computer system) within the recited steps of the claimed method of promoting a product or service.

Mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result.

Although the claimed invention produces a useful, concrete and tangible result, since the claimed invention as a whole is not within the technological arts, as explained above, claims 1-15 are deemed to be directed to non statutory subject matter.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended, and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Claims 11, 12 and

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15 include double brackets indicating deleted matter. For purpose of art rejection the Examiner would examine the claims without deleting the subject matter inside the double brackets.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Miles et al (U.S. 6,102,406).

As per claim 1, Miles teaches:

A method for promoting a product or service comprising the steps of

- a) identifying a first sponsor (see column 2, lines 5-15; figure 2D);
- b) identifying a first product or service (see column 2, lines 60-67; column 3, lines 25-47);
- c) identifying a second sponsor (see figure 2f; column 2, lines 61-67);
- d) identifying a second product or service (see figure 2f);
- e) designing an interactive cross-branding promotion (see figures 2f, 2g); and
- f) implementing an interactive cross-branding promotion (see column 3, lines 25-46).

As per claim 2, Miles teaches:

A method for promoting a product or service according to claim 1 wherein said first sponsor is a primary or secondary sponsor (see column 2d-2l).

As per claim 3, Miles teaches:

A method for promoting a product or service according to claim 1 wherein said second sponsor is a primary sponsor (see column 2, lines 5-16).

As per claim 4, Miles teaches:

A method for promoting a product or service according to claim 1 further comprising the steps of a) identifying a third sponsor (see figures 2f, 2g).

As per claim 5, Miles teaches:

A method for promoting a product or service according to claim 4 further comprising the steps of a) identifying a third product or service (see figures 2f, 2g).

As per claim 6, Miles teaches:

A method for promoting a product or service according to claim 4 wherein said third sponsor is a primary sponsor (see column 3, lines 25-46).

As per claim 7, Miles teaches:

A method for promoting a product or service according to claim 4 wherein said third sponsor is a secondary sponsor (see column 2, lines 60-67).

As per claim 8, Miles teaches:

A method for promoting a product or service according to claim 4 wherein said third sponsor is a tertiary sponsor (see column 9, lines 17-29).

As per claim 9, Miles teaches:

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A product or service promotion comprising:

a first sponsor (see column 2, lines 5-15);

a first product or service (see figure 2D);

a second sponsor (see figure 2f);

a second product or service (see figure 2f-2g);

an interactive presentation promoting said first product or service (see column 3, lines 25-45); and

an interactive presentation promoting said second product or service (see figures 2f-2g);

wherein said first product or service is related to said second product or service (see figures 2f-2g).

As per claim 10, Miles teaches:

A product or service promotion according to claim 10 further comprising:

a third sponsor (see figures 2f-2g);

a third product or service (see figures 2f-2g); and

an interactive presentation promoting said third product or service (see figures 2f-2g);

wherein said third product or service is related to either said first product or service or said second product or service (see figures 2f-2g).

As per claim 11, Miles teaches:

A method of promoting a product or service comprising the steps of:

- a) presenting a first interactive presentation to a consumer (see figures 2f-2g);
- b) receiving input from said consumer [concerning said first interactive presentation (see figures 2f-2g);
- c) presenting a second interactive presentation to said consumer, said second interactive presentation being related to said first interactive presentation (see figures 2f-2g; column 3, lines 25-45);
- d) receiving input from said consumer [concerning said second interactive presentation] (see figures 2f-2g).

As per claim 12, Miles teaches:

A method according to claim 11, further comprising the steps of

- a) presenting a third interactive presentation to said consumer, said second interactive presentation being related to said first interactive presentation or said second interactive presentation (see figures 2f-2g);
- b) receiving input from said consumer [concerning said third interactive presentation] (see figures 2f-2g).

As per claim 13, Miles teaches:

A method according to claim 11 wherein said first interactive presentation promotes a first product or service and said second interactive presentation promotes a second product or service (see figures 2f-2g); and

said first interactive presentation is related to said second interactive presentation in that said first product or service can be used in conjunction with said second product or service (see figures 2f-2g).

As per claim 14, Miles teaches:

A method according to claim 12 wherein said first interactive presentation promotes a first product or service, said second interactive presentation promotes a second product or service and said third interactive presentation promotes a third product or service (see figures 2f-2g); and

said third interactive presentation is related to either said first interactive presentation or said second interactive presentation in that said third product or service can be used in conjunction with either said first product or service or said second product or service (see figures 2f-2g).

As per claim 15, Miles teaches:

A system for promoting a product or service comprising:

means for presenting a first interactive presentation to a consumer means for receiving input from said consumer [concerning/in response to said first interactive presentation] (see figures 2f-2g);

means for presenting a second interactive presentation to said consumer, said second interactive presentation being related to said first interactive presentation (see figures 2f-2g; column 3, lines 25-45);

means for receiving input from said consumer [concerning/in response to said second interactive presentation] (see figures 2f-2g; column 3, lines 25-45).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Star Trek teaches an internet scavenger hunt contest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

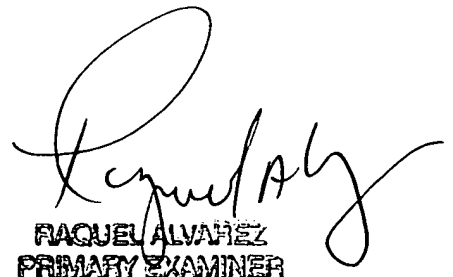
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

The Examiner is scheduled to move to the new Alexandria office in April 2005 (or later). The Alexandria phone number would be 571-272-6720 and RightFax number 571-273-6720. The examiner's supervisor, Eric W. Stamber, new Alexandria number would be 571-272-6724. The current numbers would be in service until the move.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra
February 15, 2005


RAQUEL ALVAREZ
PRIMARY EXAMINER